

Message Text

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ACTION EUR-12

INFO OCT-01 EA-07 ISO-00 PM-04 NSC-05 SP-02 SS-15 L-03

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FM AMEMBASSY BONN

TO SECSTATE WASHDC IMMEDIATE 1423

INFO AMEMBASSY TOKYO IMMEDIATE

CINCPAC HONOLULU IMMEDIATE

COMUSJAPAN YOKOTA IMMEDIATE

USMISSION NATO BRUSSELS IMMEDIATE

CINC EUR VAHINGEN

CINC USAREUR HEIDELBERG

C O N F I D E N T I A L SECTION 01 OF 02 BONN 14450

E.O. 11652: GDS

TAGS: MARR, MPOL, NATO, JA, GW

SUBJECT: GOJ FACT-FINDING VISIT

JOINT EMBASSY/EUCOM/USAREUR MESSAGE

REFS: (A) STATE 192890 DTG 041618Z AUG 76

(B) BONN 11262 DTG 021517Z JUL 76 (EXDIS --
SPECAT EXCLUSIVE)

(C) BONN 11774 DTG 131328Z JUL 76

(D) BONN 12325 DTG 211720Z JUL 76

(E) BONN 12379 DTG 221645Z JUL 76

BEGIN SUMMARY: REFTEL A TRANSMITTED A SERIES OF QUESTIONS CONCERNING THE NATO SOFA, THE ANSWERS TO BE HANDED OVER TO MR. SATO AND HIS FACT-FINDING TEAM. EMBASSY BONN, CINCEUR AND CINCUSAREUR ARE IN AGREEMENT THAT THE ACTIVITIES OF THE GOJ FACT-FINDING TEAM THREATEN TO AWAKEN SLEEPING DOGS AND PUT INTO QUESTION PRACTICES CURRENTLY FOLLOWED IN THE FRG WHICH ARE QUITE SATIS-
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FACTORY TO THE USG AND WHOSE MODIFICATION CAN ONLY WORK

TO OUR DETRIMENT. SINCE THE NUMBER OF U.S. TROOPS IN THE FRG VASTLY OUTNUMBERS THOSE IN JAPAN, OVERALL U.S. INTERESTS WOULD NOT BE WELL SERVED BY ANY FURTHER SURFACING OF U.S. AND FEDREP DIFFERENCES OVER THE LEGAL SITUATION AND THE PRACTICAL ARRANGEMENTS PREVAILING IN THE FRG. WE STRONGLY RECOMMEND THAT THE GOJ BE TOLD THAT THE USG HAS PROVIDED THE REQUESTED INFORMATION TO THE JAPANESE FACT-FINDING TEAM DURING ITS VISITS TO WASHINGTON AND GERMANY. IN THIS CONNECTION, WASHINGTON MAY WISH TO DRAW ON CINC USAREUR'S AFTER-VISIT REPORT (DTG 061504Z AUG 76) WHICH WAS TRANSMITTED AFTER REFTEL A WAS DISPATCHED AND WHICH PROVIDES FURTHER INFORMATION ON WHAT SATO'S TEAM WAS TOLD AFTER SATO HIMSELF DEPARTED THE FRG. END SUMMARY.

1. BONN REPEATEDLY EXPRESSED RESERVATIONS OVER THE GOJ FACT-FINDING VISIT (REFTELS B, C, D AND E), IN PARTICULAR BECAUSE WE FELT THAT THE EMBASSY AND USAREUR LACKED THE EXPERTISE TO DISCUSS BURDEN-SHARING AND THE SOFA. WHAT SEEMS TO HAVE OCCURRED IS A COLLARY OF THE KIND OF PROBLEM WE RAISED IN OUR INITIAL CABLE ON THE SUBJECT (REFTEL B). THE JAPANESE APPEAR TO BE USING THE DIFFERENT INTERPRETATIONS WHICH THE U.S. AND FEDREP GOVERNMENTS HAVE CONCERNING EXISTING AGREEMENTS AND PRACTICES IN ORDER TO ARGUE FOR THE MOST FAVORABLE POSSIBLE TREATMENT FOR JAPANESE NATIONALS WORKING FOR THE U.S. FORCES IN JAPAN. IN THE PROCESS, THE JAPANESE THREATEN TO EMBROIL THE USG, OTHER NATO SENDING STATES AND THE FRG IN A SERIES OF UNNECESSARY DISPUTES. THE MOST LIKELY RESULT WILL BE TO PUT INTO QUESTION PRACTICES CURRENTLY FOLLOWED IN THE FEDREP WHICH ARE QUITE SATISFACTORY TO THE USG AND OTHER NATO SENDING STATES, PRACTICES WHOSE MODIFICATION CAN ONLY WORK TO OUR DETRIMENT.

2. THEREFORE, THE EMBASSY AND EUCOM AGREE WITH USAREUR'S POSITION THAT THE QUESTIONS POSED IN REFTEL A SHOULD NOT BE ANSWERED FOR REASONS WHICH USAREUR HAS DESCRIBED IN THE FOLLOWING FASHION:

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"A. A GREAT DEAL OF INFORMATION ON THESE SUBJECTS HAS ALREADY BEEN PROVIDED BY USAREUR. ALTHOUGH SATO WAS AT HQ USAREUR ON 26 JULY ONLY, SOMEHA REMAINED AND WAS JOINED ON 28 JULY BY THE OTHER FOUR MEMBERS OF THE PARTY WHO STAYED THROUGH 30 JULY. ANDO AND SUZUKI RETURNED FOR FURTHER DISCUSSION ON 2 AUGUST. HQ USAREUR STAFF REPRESENTING ODCSPER, OJA AND ODCSENGR WERE INVOLVED OVER A FIVE-DAY PERIOD IN DISCUSSIONS AND MEETINGS WITH

THE JAPANESE DELEGATION. CONSEQUENTLY, SATO COULD NOT HAVE KNOWN WHAT INFORMATION WAS BEING FURNISHED TO THE DELEGATION AT HQ USAREUR DURING AND AFTER HIS STOP IN WASHINGTON ON 28-29 JULY.

B. THE GERMANS HAVE ALSO PROVIDED INFORMATION ON

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SUBSTANTIALLY THE SAME SUBJECTS. THERE IS A DANGER THAT THE JAPANESE WILL USE INFORMATION RECEIVED FROM THE GERMANS TO QUESTION THE VALIDITY OF INFORMATION RECEIVED FROM USAREUR (AND VICE VERSA). DURING A 9 AUGUST 76 RECEPTION HOSTED BY JAPANESE EMBASSY TO THANK GERMANS FOR THEIR COOPERATION, INFORMATION OBTAINED FROM USAREUR WAS DESCRIBED TO DEPUTY USAREUR LIAISON OFFICER BY ONE JAPANESE OFFICIAL AS "UNTRUTHFUL."

C. WITH MINOR EXCEPTIONS, THE QUESTIONS ASKED DO

NOT HAVE SETTLED ANSWERS. MANY OF MR. ANDO'S QUESTIONS WERE ANSWERED ORALLY DURING HIS VISIT WHICH, AS INDICATED ABOVE, WAS SUBSEQUENT TO SATO'S VISIT. THIS POINT IS ILLUSTRATED BY THE VERY FIRST QUESTION IN REF A WHICH IS THE MOST IMPORTANT AND MOTIVATES THE REMAINING 19 QUESTIONS. WE HAVE NEVER AGREED WITH THE GERMANS ON AN ANSWER TO THIS QUESTION (APPLICABILITY OF FRG DOMESTIC LAW TO THE NATO SENDING STATES FORCES). THIS ISSUE
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CAUSED MANY PROBLEMS TEN YEARS AGO AS INDICATED IN EMBASSY BONN AIRGRAM A-1517 OF 13 APR 66. THIS ISSUE IS NOW DORMANT AND SHOULD REMAIN SO. ANSWERING THE QUESTIONS IN REF A WOULD PROBABLY RESURRECT THIS ISSUE.

D. TO THE EXTENT THAT THE GERMAN AUTHORITIES ARE COMPELLED TO TAKE NOTE OF UNRESOLVED ISSUES RAISED BY THE INFORMATION WE PROVIDE (THE JAPANESE WILL PROBABLY CONTACT THE GERMANS IN AREAS WHERE THERE IS CONFLICT BETWEEN INFO PROVIDED BY US AND INFO PROVIDED BY THE GERMANS), THEY MAY FURTHER BELIEVE THEMSELVES COMPELLED TO PRESS FOR RESOLUTION OF SUCH ISSUES."

3. IN ADDITION TO THE ARGUMENTS PRESENTED ABOVE, IT IS OUR JUDGMENT THAT PROVIDING THE GOJ WITH ORAL ANSWERS TO THEIR QUESTIONS, TOGETHER WITH WRITTEN SOURCE MATERIAL, WAS NOT NEARLY AS LIKELY TO GENERATE DIFFICULTIES WITH THE FRG AS WOULD A WRITTEN U.S. INTERPRETATION OF THE PROVISIONS OF THE APPLICABLE AGREEMENT AND THE CONSEQUENT U.S. POSITION. THE LATTER COURSE OF ACTION WOULD PROVIDE THE JAPANESE WITH THE MEANS, USING OUR OWN WORDS, TO TAKE U.S. VIEWS ON POTENTIALLY CONTROVERSIAL MATTERS TO THE FRG FOR FRG COMMENT. THE FRG COULD USE THESE VIEWS AGAINST US IN THE FUTURE, OR MIGHT QUOTE THEM BACK TO US FOR CLARIFICATION OR JUSTIFICATION.

4. WASHINGTON SHOULD BE AWARE THAT NUMEROUS PROBLEMS, SUCH AS THE DEGREE OF APPLICABILITY OF FRG LABOR LAWS AND ENVIRONMENTAL LAWS TO STATIONED FORCES UNDER NATO SOFA AND SUPPLEMENTARY AGREEMENT, ARE COORDINATED AMONG THE SIX NATO SENDING STATES DURING THE COURSE OF SEMI-ANNUAL SESSIONS AND AT INTERSESSIONAL MEETINGS ON SPECIFIC PROBLEMS OF COMMON INTEREST. THESE MEETINGS ARE DESIGNED TO PRECLUDE ACTION BY ONE SENDING STATE ON A BILATERAL PROBLEM WITH THE FRG THAT WOULD HAVE IMPLICATIONS FOR, AND COULD PREJUDICE THE POSITION OF, OTHER SENDING STATES. WE CONSIDER THIS COORDINATION TO BE A VERY IMPORTANT MECHANISM TO FACE THE FRG WITH COMMON SENDING STATE POSITIONS ON MAJOR ITEMS (E.G., THE FRG

ELECTRIFICATION LAW EQUALIZATION LEVY). IN THIS
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CONNECTION IT SHOULD BE NOTED THAT THE U.S. GAINS MORE
THAN IT GIVES BY COORDINATING ITS POSITION WITH THE
OTHER SENDING STATES, IF ONLY BECAUSE U.S. FINANCIAL
INTERESTS ARE LARGER THAN THEIRS. PROVIDING THE GOJ H
WITH FURTHER INFORMATION ON U.S. VIEWS BEYOND WHAT WE
HAVE ALREADY PROVIDED, PARTICULARLY IF IT WERE DONE IN
WRITING, IS LIKELY TO EVOKE PROBLEMS NOT MERELY FOR THE
USG AND U.S. FORCES BUT ALSO FOR OTHER NATO SENDING
STATES. THE EMBASSY, EUCOM AND USAREUR BELIEVE THIS
POSSIBILITY SHOULD BE AVOIDED.

5. CONCLUSION: EMBASSY BONN, EUCOM AND USAREUR
RECOMMEND THAT THE GOJ BE ADVISED THAT THE INFORMATION
ALREADY PROVIDED BY WASHINGTON AND USAREUR SHOULD
SUFFICE FOR THE PURPOSES FOR WHICH THE GOJ TEAM WAS
ESTABLISHED. IN SO DOING, REFERENCE COULD WELL BE MADE
TO THE FIVE DAYS OF BRIEFINGS AND DISCUSSIONS WHICH THE
JAPANESE DELEGATION HAD AT USAREUR AFTER SATO DEPARTED.
HILLENBRAND

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